

**GOVERNMENT OF INDIA
LAW AND JUSTICE
LOK SABHA**

UNSTARRED QUESTION NO:4585

ANSWERED ON:29.03.2017

Plight of Under Trials

Girri Shri Maheish

Will the Minister of LAW AND JUSTICE be pleased to state:

- (a) whether there have been a large number of cases in which poor people despite getting relief are kept inside the jail for want of bail bonds and local sureties;
- (b) if so, the details thereof and the reasons therefor;
- (c) whether the Government is taking steps to drop such clauses in the bail law that create difficulties for the poor to come out of jail despite getting relief from the court;
- (d) if so, the details thereof and if not, the reasons therefor;
- (e) whether the Government plans to introduce a legislation to bring uniformity in grounds for grant of bail to under-trials; and
- (f) if so, the details thereof and if not, the reasons therefor?

Answer

ANSWER

MINISTER OF STATE FOR LAW AND JUSTICE AND ELECTRONICS AND INFORMATION TECHNOLOGY

(SHRI P.P.CHAUDHARY)

(a) and (f) Information relating to Under Trials who got relief from court but could not be released due to lack of bail bonds and local sureties is not maintained centrally as it is a State subject.

There are adequate legal provisions in the Code of Criminal Procedure 1973 (CrPc) to resolve the plight of Under Trials. Minister of Law & Justice has written to the Chief Justices of High Courts on 3rd February 2017 requesting for periodic monitoring of release of Under Trials so that every accused person receives a fair trial and does not languish in jail longer than is absolutely necessary as per law.

The Hon'ble Supreme Court in its order dated 05.09.2014 in the Writ Petition No. 310/2005-Bhim Singh Vs Union of India & Other relating to the undertrial prisoner has directed for effective implementation of Section 436 A of the Code of Criminal Procedure. The DG (Prisons)/IG (Prisons) of all States/UTs have been requested on 22.09.2014 to take necessary action to comply with the order of the Hon'ble Supreme Court in the matter.

'Prisons' is a State subject as per Entry 4 of the List II of the Seventh Schedule to the Constitution of India. Therefore, the administration and management of prisons is primarily the responsibility of the State Governments. However, the Ministry of Home Affairs has prepared a new Model Prison Manual 2016 covering all aspects of prisons and copy of the same has been sent to the States/UTs for guidance.

The Hon'ble Supreme Court further vide orders dated 05.02.2016 had inter alia passed directions in the aforesaid matter, which are as under:

1. The Under Trial Review Committee in every district should meet every quarter and the first such meeting should take place on or before 31st March, 2016. The Secretary of the District Legal Services Committee should attend each meeting of the Under Trial Review Committee and follow up the discussions with appropriate steps for the release of undertrial prisoners and convicts who have undergone their sentence or are entitled to release because of remission granted to them.

2. The Under Trial Review Committee should specifically look into aspects pertaining to effective implementation of Section 436 of the Cr.P.C. and Section 436A of the Cr.P.C. so that undertrial prisoners are released at the earliest and those who cannot furnish bail bonds due to their poverty are not subjected to incarceration only for that reason. The Under Trial Review Committee will also look into issue of implementation of the Probation of Offenders Act, 1958 particularly with regard to first time offenders so that they have a chance of being restored and rehabilitated in society.

3. The Member Secretary of the State Legal Services Authority of every State will ensure, in coordination with the Secretary of the District Legal Services Committee in every district, that an adequate number of competent lawyers are empanelled to assist undertrial prisoners and convicts, particularly the poor and indigent, and that legal aid for the poor does not become poor legal aid.

4. The Secretary of the District Legal Services Committee will also look into the issue of the release of undertrial prisoners in compoundable offences, the effort being to effectively explore the possibility of compounding offences rather than requiring a trial to take place.

5. The Under Trial Review Committee will also look into the issues raised in the Model Prison Manual 2016 including regular jail visits as suggested in the said Manual.